

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIABOBBY BAKER,  
Plaintiff,

v.

COUNTY OF ALAMEDA, et al.,  
Defendants.

Case No. 23-cv-03041 NC

**ORDER OF DISMISSAL**

Plaintiff Bobby Baker was a civil detainee proceeding *pro se* and proceeding *in forma pauperis* in this civil rights complaint pursuant to 42 U.S.C. § 1983. This action was filed on February 7, 2023, concerning events which occurred at a jail in Alameda County, where he was temporarily housed pending his commitment trial under California’s Sexually Violent Predator Act (“SVPA”). Dkt. No. 1. On October 30, 2024, counsel for the County of Alameda, Jill Sazama, filed a notice of suggestion of death of Plaintiff Bobby Baker, stating that she was informed by a representative from Coalinga State Hospital that Mr. Baker died on October 18, 2024. Dkt. No. 34. On November 4, 2024, the Court directed Defendants to identify the successor of Mr. Baker’s estate and file a notice of the service of suggestion of death on the successors or representatives under Federal Rule of Civil Procedure 4. Dkt. No. 35. On November 25, 2024, Defendants filed

a notice of service of suggestion of death on decedent's next of kin and estate representative, Mr. Baker's sister. Dkt. No. 36.

Rule 25(a)(1) provides:

If a party dies and the claim is not thereby extinguished, the court may order the substitution of the proper party. A motion for substitution may be made by any party or by the decedent's successor or representative. If the motion is not made within 90 days after service of a statement noting the death, the action by or against the decedent must be dismissed.

Fed. R. Civ. P. 25(a)(1). Two things are required of a party for the running of the 90 day period to commence: a party must (1) formally suggest the death of the party on the record, and (2) serve the suggestion of death on the other parties and nonparty successors or representatives. *Barlow v. Ground*, 39 F.3d 231, 233 (9th Cir. 1994). A party may be served the suggestion of death by service on his or her attorney, Fed. R. Civ. P. 5(b), while non-party successors or representatives of the deceased party must be served the suggestion of death in the manner provided by Rule 4 for the service of a summons. Fed. R. Civ. P. 25(a)(3); *Barlow*, 39 F.3d at 232-34.

Defendants have satisfied the two requirements by filing the suggestion of death and their notice of service of the suggestion of death on Mr. Baker's estate representative. Accordingly, their notice filed on November 25, 2024, triggered the ninety-day period set forth in Rule 25 of the Federal Rules of Civil Procedure. *See Barlow*, 39 F.3d at 233; Fed. R. Civ. P. 25(a)(1). Because no motion for substitution was filed on or before February 24, 2025, this action is **DISMISSED** pursuant to Rule 25(a).

The Clerk shall terminate any pending motions and close the file.

**IT IS SO ORDERED.**

Dated: February 27, 2025

  
NATHANAEL M. COUSINS  
United States Magistrate Judge